

115TH CONGRESS
1ST SESSION

S. 878

To establish privacy protections for customers of broadband Internet access service and other telecommunications services.

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 4), 2017

Mr. MARKEY (for himself, Mr. BLUMENTHAL, Ms. WARREN, Mr. SANDERS, Mr. MERKLEY, Mr. HEINRICH, Mr. UDALL, Mr. LEAHY, Ms. BALDWIN, Mr. VAN HOLLEN, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish privacy protections for customers of broadband Internet access service and other telecommunications services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PRIVACY OF CUSTOMERS OF BROADBAND**
4 **INTERNET ACCESS SERVICE AND OTHER**
5 **TELECOMMUNICATIONS SERVICES.**

6 (a) IN GENERAL.—Section 222 of the Communica-
7 tions Act of 1934 (47 U.S.C. 222) is amended—

1 (1) by redesignating subsection (h) as sub-
2 section (i); and

3 (2) by inserting after subsection (g) the fol-
4 lowing:

5 “(h) PRIVACY OF CUSTOMERS OF BROADBAND
6 INTERNET ACCESS SERVICE AND OTHER TELECOMMUNI-
7 CATIONS SERVICES.—

8 “(1) DEFINITIONS.—In this subsection—

9 “(A) the term ‘broadband Internet access
10 service’ has the meaning given the term in sec-
11 tion 8.2 of title 47, Code of Federal Regula-
12 tions, or any successor regulation;

13 “(B) the term ‘customer’ means—

14 “(i) a current or former subscriber to
15 a telecommunications service; or

16 “(ii) an applicant for a telecommuni-
17 cations service;

18 “(C) the term ‘customer proprietary infor-
19 mation’ means, with respect to information or
20 content that a telecommunications carrier ac-
21 quires in connection with its provision of tele-
22 communications service—

23 “(i) individually identifiable customer
24 proprietary network information;

1 “(ii) personally identifiable informa-
2 tion; and

3 “(iii) content of communications;

4 “(D) the term ‘opt-in approval’ means a
5 method for a telecommunications carrier to ob-
6 tain customer consent to use, disclose, or per-
7 mit access to the customer’s customer propri-
8 etary information that requires that the tele-
9 communications carrier obtain from the cus-
10 tomer affirmative, express consent allowing the
11 requested usage, disclosure, or access to the
12 customer proprietary information after the cus-
13 tomer is provided appropriate notification of the
14 carrier’s request;

15 “(E) the term ‘sensitive customer propri-
16 etary information’ includes—

17 “(i) financial information;

18 “(ii) health information;

19 “(iii) information pertaining to chil-
20 dren;

21 “(iv) Social Security numbers;

22 “(v) precise geolocation information;

23 “(vi) content of communications;

24 “(vii) call detail information;

1 “(viii) web browsing history, applica-
2 tion usage history, and the functional
3 equivalents of either; and

4 “(ix) any other customary proprietary
5 information that the Commission deter-
6 mines to be sensitive; and

7 “(F) the term ‘telecommunications service’
8 includes broadband Internet access service and
9 interconnected VoIP service.

10 “(2) REGULATIONS.—In carrying out this sec-
11 tion, the Commission shall promulgate regulations to
12 protect the privacy of customers of telecommuni-
13 cations service.

14 “(3) CONTENTS.—In promulgating regulations
15 under paragraph (2), the Commission shall—

16 “(A) require a telecommunications carrier
17 to notify a customer about the collection, use,
18 and sharing of his or her customer proprietary
19 information, including by—

20 “(i) notifying the customer about the
21 types of customer proprietary information
22 the carrier collects;

23 “(ii) specifying how and for what pur-
24 poses the carrier uses and shares customer
25 proprietary information; and

1 “(iii) identifying the types of entities
2 with which the carrier shares customer
3 proprietary information;

4 “(B) require a telecommunications carrier
5 to—

6 “(i) provide the notification under
7 subparagraph (A) to a customer at the
8 point of sale, before the purchase of serv-
9 ice; and

10 “(ii) update a customer when the car-
11 rier makes a material change to a privacy
12 policy, including any of the policies de-
13 scribed in subparagraph (A);

14 “(C) require a telecommunications carrier
15 to obtain opt-in approval from a customer to
16 use and share his or her sensitive customer pro-
17 prietary information;

18 “(D) implement strong protection for de-
19 identified customary proprietary information, to
20 prevent re-identifying such information;

21 “(E) prohibit a telecommunications carrier
22 from refusing to serve a customer who doesn’t
23 consent to the use and sharing of his or her
24 customer proprietary information for commer-

1 cial purposes (commonly known as ‘take-it-or-
2 leave-it offers’); and

3 “(F) require a telecommunications carrier
4 to—

5 “(i) develop reasonable data security
6 practices; and

7 “(ii) notify customers if a breach of
8 security has occurred.”.

9 (b) DEADLINE.—The Federal Communications Com-
10 mission—

11 (1) not later than 180 days after the date of
12 enactment of this Act, shall promulgate regulations
13 under section 222(h)(2) of the Communications Act
14 of 1934 (47 U.S.C. 222(h)(2)), as added by sub-
15 section (a); and

16 (2) shall ensure that the regulations promul-
17 gated under paragraph (1) take effect not later than
18 180 days after the date of promulgation.

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